

THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

MALCOLM JAMAAL FLOYD,)	
)	
Plaintiff,)	
)	
v.)	1:08-CV-938-TMH
)	[WO]
)	
JUDGE LARRY ANDERSON, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On December 10, 2008, the Magistrate Judge filed a Recommendation (Doc. 4) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED that:

1. The Recommendation (Doc. 4) of the Magistrate Judge is ADOPTED;
2. The § 1983 claims presented against Judge Larry Anderson, Assistant District Attorney David Atwell, and Cassondra Tillery be DISMISSED with prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i) and/or (iii);
3. Plaintiff's challenge to the constitutionality of the conviction and sentence imposed upon him by the Circuit Court for Houston County, Alabama, be DISMISSED without prejudice pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(ii) as such claims are not properly before the court at this time; and,

4. This complaint be DISMISSED prior to service of process.

An appropriate judgment will be entered.

Done this 30th day of December, 2008.

/s/ Truman M. Hobbs

SENIOR UNITED STATES DISTRICT JUDGE